

FISCAL NOTE

SB 3196 - HB 3422

March 5, 2008

SUMMARY OF BILL: Authorizes a party to obtain a *de novo* review in chancery court of an administrative agency decision.

ESTIMATED FISCAL IMPACT:

**Increase State Revenue – Exceeds \$60,000/Division of
Regulatory Boards
Exceeds \$40,000/Division of
Health-Related Boards**

**Increase State Expenditures - \$164,500/One-Time
Exceeds \$2,300,000/Recurring**

**Other Fiscal Impact - Increase Federal Expenditures – Exceeds
\$773,800**

Assumptions:

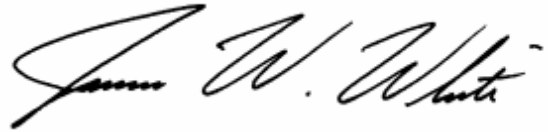
- According to the Administrative Office of the Courts (AOC), the Department of Human Services reported 25,848 contested administrative hearings, the Department of Children's Services (82), Department of Safety (17,451), Department of Labor and Workforce Development (435) and the Department of Environment and Conservation (12). For FY2005-06, there were 350 administrative hearing appeals and for FY2006-07, there were 331.
- *De novo* review will make it easier for appellants to have agency decisions overturned in chancery court. Although not all cases will be appealed, it is assumed that a significantly higher percentage of cases will be appealed than under current law.
- Under current law, administrative hearing reviews are conducted by record review. Authorizing a party to request a *de novo* hearing will involve a new evidentiary hearing in chancery court. According to the Attorney General and Reporter, these *de novo* appeals will require significantly more attorney time than is expended under current law. The Attorney General will require 11 additional attorneys and two paralegals to meet the increased workload. Recurring state expenditures

of \$1,490,400 include salaries and benefits for 11 attorneys (\$1,337,600) and salaries and benefits for two paralegals (\$152,800).

- According to the Department of Human Services (DHS) estimates 2,000 TennCare and Medicaid cases would proceed to chancery court for a *de novo* hearing. Any individual who loses the appeal who has continued to receive TennCare benefits would be required to pay those benefits back. According to DHS, the Department would require 10 additional attorneys, 10 program coordinators, and three legal assistants to handle the increased caseload. The State will receive a 50 percent federal match of \$673,750 for the recurring administrative expenses. Recurring state expenditures of \$761,650 include salaries and benefits for 10 attorneys (\$370,000), salaries and benefits for 10 program coordinators (\$240,000) and salaries and benefits for three legal assistants (\$63,750), travel (\$50,000), and annual software maintenance and operating costs (\$37,900). DHS would incur one-time expenditures of \$118,500 for computer changes to the Appeals Resolution Tracking System (ARTS).
- State departments and agencies that conduct contested administrative hearings will incur additional costs in providing additional information and assistance to the Attorney General in preparation for the *de novo* hearings. Such costs will include court reporters, transcripts, travel and per diem, expert testimony, investigations, witnesses and other related expenses. The recurring increase in state expenditures for these agencies is estimated to exceed \$200,000 statewide. Various other state departments and agencies will also incur an increase in federal costs as a result of this bill. The increase in federal expenditures is estimated to exceed \$100,000 for those departments and agencies.
- The Division of Regulatory Boards within the Department of Commerce and Insurance estimates an increase in state revenue of \$62,250 each year to cover additional costs to meet the statutory requirement of being self-supporting. It is further estimated that the Division of Health-Related Boards will have an increase in revenue of at least \$40,000 to cover additional costs and to remain self-supporting.
- The AOC estimates two new chancery courts will be needed in order to handle the large number of cases that will be directed to the Davidson County Chancery Court. Recurring state expenditures of \$558,230 include the salaries plus benefits for two judges and two secretaries. One-time expenditures of \$46,000 include books and equipment for four additional positions.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive style with a large, stylized initial "J".

James W. White, Executive Director

/lsc